

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Parts 2, 73, 74, and 90 of the)	
Commission's Rules to Permit)	ET Docket No. 03-158
New York Metropolitan Area)	MB Docket No. 03-159
Public safety Agencies to Use)	
Frequencies at 482-488 MHz)	
)	
)	

COMMENTS OF MOTOROLA

Motorola, Inc. (Motorola) hereby submits these brief comments in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.¹

Motorola supports the Commission's proposal to reallocate broadcast television channel 16 (482-488 MHz) in the New York City Metropolitan Area to the land mobile service, for use by public safety. Motorola supports and appreciates the Commission's efforts to meet the spectrum requirements of public safety. The Commission's proposed action will ensure that public safety agencies in the New York City metropolitan area will continue to have access to a spectrum resource critical to providing effective protection of the public and that the large investment made in planning, constructing and implementing a wireless infrastructure by the New York City Police Department and New York Metropolitan Advisory Committee (NYMAC) agencies will not be wasted.

¹ *In the Matter of Amendment of Parts 2, 73, 74, and 90 of the Commission's Rules to Permit New York Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz*, Notice of Proposed Rulemaking, ET Docket No. 03-158, MB Docket 03-159, 68 Fed Reg. 50739 (2003) [*"NPRM"*].

As a leading supplier of communications equipment to public safety, Motorola is very familiar with the difficulty that many public safety entities have in obtaining sufficient spectrum to meet their critical communications requirements. Given the dense population in and around the New York City metropolitan area it is not surprising that spectrum congestion is a significant problem in this area. Considering the overcrowding of spectrum in this area, the Commission determined in 1995 that it was necessary and appropriate to grant a waiver of Parts 2 and 90 of its rules to allow the temporary assignment of frequencies in the 482-488 MHz band to public safety in the New York City metropolitan area.² Since that time the Police Department of the City of New York (NYPD) and other NYMAC agencies have made large investments in planning, constructing and implementing a wireless communications infrastructure, with the NYPD alone investing in excess of \$50 million.³

The Commission's proposal to permanently reallocate channel 16 comes in response to a report filed by the NYPD which demonstrates that, 1) continued availability of this spectrum to public safety is jeopardized if the Commission does not take action, and 2) that there is no alternative spectrum available for use by public safety in this area that would satisfy its requirements.⁴ Motorola agrees with the Commission's tentative

² *Waiver of Parts 2 and 90 of the Commission's Rules to Permit New York Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz on a Conditional Basis*, 10 FCC Rcd 4466 (1995).

³ *See NPRM at Appendix B: Report of the Police Department of the City of New York* ["Report"] at 3.

⁴ *See Report*, in particular the *Frequency Analysis in Support of the Permanent Reallocation of TV Channel 16 to the New York Metropolitan Area for Public Safety Wireless Applications*, by Vogel Consulting Group, Inc.

conclusion that reallocating channel 16 to the land mobile service for use by public safety would be preferable to a permanent waiver under Section 337(c) and would provide the immediate and long-term relief necessary to provide certainty regarding the continued availability of this spectrum. Loss of this spectrum for public safety would cause the significant investment by the NYPD and other NYMAC agencies to be wasted. It would also negatively impact the ability of those agencies to communicate and to interoperate with other agencies critical to protecting the public. Accordingly, Motorola supports Commission action pursuant to their authority under Section 303 of the Communications Act to reallocate these frequencies to the land mobile service for use by public safety.

Motorola fully supports and appreciates the Commission's efforts to alleviate a critical spectrum shortage for public safety use in the New York City metropolitan area. Additionally, we note that many other agencies around the country also face a shortage of spectrum. This shortage will only be exacerbated as public safety strives for improved interoperability and access to greater amounts of information. More than five years ago, the Commission acknowledged the "critical need for more public safety spectrum in the United States," and recommendations by the Public Safety Wireless Advisory Committee regarding requirements for additional spectrum.⁵ In December 1997, at the direction of Congress, the Commission took an important first step toward implementing the PSWAC

⁵ *Reallocation of Television Channels 60-69, the 746-806 MHz Band*, ET Docket No. 97-157, Notice of Proposed Rule Making, 12 FCC Rcd 14141, ¶ 8 (1997); *see also Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Services*, MM Docket No. 87-268, Sixth Report and Order, 12 FCC Rcd 14588, ¶ 79 (1997); *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS")*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, ¶ 74 (1997). *See also* Public Safety Wireless Advisory Committee, Final Report (Sept. 1996) ("*PSWAC Final Report*"). The Commission and the NTIA established the PSWAC in 1995 to identify the spectrum needs of public safety agencies through the year 2010 and to formulate recommendations for meeting those needs. The *PSWAC Final Report* sets forth the PSWAC's detailed findings and key recommendations.

recommendation by allocating 24 MHz of spectrum for public safety use in the 746-806 MHz band.⁶ Even though almost six years have passed since that allocation, this spectrum remains unavailable for public safety use in 40 of the top 80 markets due to the presence of incumbent broadcast operations.⁷ Although clearance of the 700 MHz band is unquestionably a complex issue, the Commission must find a solution promptly so that Congress's mandate for additional public safety spectrum can finally be put into effect throughout the nation.

Conclusion

Motorola fully supports the Commission's proposal to reallocate broadcast television channel 16 (482-488 MHz) in the New York City Metropolitan Area to the land mobile service, for use by public safety and urges the Commission to act quickly to implement this allocation.

Respectfully submitted,

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⁶ See *Reallocation of Television Channels 60-69, the 746-806 MHz Band*, ET Docket No. 97-157, Report and Order, 12 FCC Rcd 22953, ¶ 12 (1998). This action implemented Section 3004 of the Balanced Budget Act of 1997, Pub. L. No. 103-55, 111 Stat. 251, and a spectrum allocation recommendation in the *PSWAC Final Report*. See *PSWAC Final Report* at 59.

⁷ See *Motorola Spectrum Policy White Paper* at 23.